

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION No.18273 OF 2005

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Dt: 09.09.2005

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Between:

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The Principal Secretary to Government
Higher Education, Government of A.P.,
Hyderabad and others ... PETITIONERS

AND

Dr.T.Vijayaramayya,
B/o.Late Dr.T.Priyamvada Devi
Government Degree College
Rajahmundry, B-4, F3 Block
Vijaya 64, Second main road
Besantnagar, Madras ... RESPONDENT

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WRIT PETITION No.18273 OF 2005

ORDER: *(per the Hon'ble Smt.Justice T.Meena Kumari)*

This Writ Petition is filed by the petitioners-respondents to quash the Order dated 31.12.2003 in O.A.No.6180 of 1998 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad (for short '**the Tribunal**').

It is the case of the petitioners that in the place of the "Family Benefit Fund Scheme", the Government in G.O.Ms.No.293, Finance and Planning Department dated 08.10.1984 have introduced the 'Group Insurance Scheme' 1984 (for short '**the Scheme**') enrolling all the State Government employees who were in service as on 1st November, 1984 which is a compulsory Scheme and the employees were categorized into four groups viz., A, B, C and D for payment of subscription according to their eligibility basing on the drawing of the scale of pay. Accordingly, Dr.T.Priyamvada Devi, Lecturer in Chemistry, Government Degree College, Rajahmundry who came under category-B as per her scale of pay drawing as on

that date paid Rs.40/- per month towards her subscription in this scheme from 01.11.1984 to July 1986 and she expired on 03.07.1986 while in service. Dr.T.Vijayaramaiah, brother of late Dr.T.Priyamvada Devi, produced Succession Certificate as her legal heir issued by the District Court and on such production, he was paid the amounts towards the benefit under the Scheme, to be paid to his sister, by the Principal, Government Degree College, Rajahmundry in his letter dated 18.11.1996.

It is their further case that Dr.T.Vijayaramaiah, brother of late Dr.T.Priyamvada Devi, through his representations dated 24.03.1997 and 04.05.1997 has requested the petitioners to pay the balance amount of Rs.40,000/- with interest under the Scheme by treating her sister as coming under Group-A category and that since no orders were passed on the said representations, he filed O.A.No.4432 of 1997 before the Tribunal for a direction to the respondents therein to consider his case. The Tribunal has disposed of the said O.A on 22.07.1997 with a direction to the second respondent therein to examine his representations and pass appropriate orders as per the Rules within a period of two months from the date of receipt of the order. Pursuant to the same, the matter was referred to the Government in letter dated 04.12.1997 seeking clarification for payment of the amount under the Scheme as per the instructions issued in Government Memo dated 29.11.1985 wherein, the Government clarified that in case of Lecturers who were drawing non-Dearness Allowance merged scales of pay (UGC Scales of Pay), the group to which they are eligible shall be decided by adding dearness pay to their scales of pay. In response to it, the Government in their Memo dated 07.01.1998 have directed to take necessary action in this case, keeping in view the instructions issued in Government Memo dated 29.11.1997 in a similar case. As per the instructions issued in the said Government Memo, the request of Dr.T.Vijayaramaiah, brother of late Dr.T.Priyamvada Devi, for payment of balance amount of Rs.40,000/- under the Scheme was rejected by D.C.E's proceedings dated 19.01.1998. Aggrieved by those proceedings, Dr.T.Vijayaramaiah, brother of late Dr.T.Priyamvada Devi, again filed O.A.No.6180 of 1998 before the Tribunal to declare the action of petitioners 1 to 3 in rejecting the benefits to his sister which were payable as per G.O.Ms.No.293, Finance and Planning Department, dated 08.10.1984 and as per the clarifications issued in Government Memo dated 29.11.1985 as illegal and arbitrary and consequently to direct the petitioners to pay the differential amount of Rs.40,000/- with interest by treating the deceased employee as coming under group 'A' category

under the Scheme after making deduction of balance of premium from the specified due amount. The Tribunal has disposed of the said O.A. on 31.12.2003 directing the petitioners to consider the case of the sister of the respondent-applicant to be categorized under Group-A of the Scheme by paying the amount of Rs.80,000/- after duly deducting the balance of premium and Rs.40,000/- which was already paid to him. Since the Succession Certificate was issued only for the amount paid, the respondent-applicant was directed to obtain further Succession Certificate from the concerned District Court and after producing the same before the authorities, the balance of the amount, as aforesaid, should be paid to him. Even before the said certificate is produced, the amount is to be calculated and necessary orders be passed, but amount be paid only after producing the Succession Certificate.

Learned counsel for the petitioners contended that as the sister of the respondent-applicant was no more as on the date of implementation of the clarification issued in the Government Memo dated 29.11.1985 i.e. on 01.04.1987, she was not categorized under Group-A under the Scheme and since the subscription at the rate of Rs.80/- was not deducted from her salary, she was not eligible for payment of the amount of Rs.80,000/- under the scheme and the Tribunal without considering the facts, directed the petitioners to pay the balance amount which is nothing but erroneous and contrary to law.

Heard the learned counsel and perused the impugned order.

The Tribunal after going into the merits of the case has observed that the sister of the respondent-applicant was drawing in the scale of Rs.700-1600 and to that amount Rs.363/- has to be added as per the clarification dated 29.11.1985. Therefore, she has to be categorized under Group-A of the scheme as it goes beyond Rs.700-1600 scale. It further observed that it is the date on which the clarification was issued has to be taken into consideration and so, by the date of issuing the clarification i.e., 29.11.1985, the sister of the respondent-applicant was alive as she expired on 03.07.1986 and that merely because some clarification was issued subsequently stating that it will be implemented from 1st November, that cannot divest the rights of the deceased employee and on account of laches on the part of the authorities, the deceased employee cannot be found fault with.

Since the Tribunal has given cogent and convincing reasons while directing the petitioners to pay the balance amount under the Scheme, we do not find any ground

to interfere with the impugned Order. The Writ petition fails and the same is accordingly dismissed.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 09.09.2005

bsv/lvl